



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,176	07/31/2001	Christine L. Corriveau	112703-183	9018

29156 7590 10/20/2003
BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

EXAMINER

CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
----------	--------------

1761

DATE MAILED: 10/20/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,176

Applicant(s)

CORRIVEAU ET AL

Examiner

ARTHUR L. CORBIN

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 8-18-03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-26 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

Art Unit: 1761

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 18, 2003 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9-15, 17, 18 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherukuri et al.

Applicant is referred to the reasoning set forth in paragraph Nos. 6 and 7, Paper No. 5 and paragraph Nos. 3 and 7, Paper No. 7. Further, in the absence of unexpected results, the particular shape of the gum chips or gum particles simply depends upon desired results, personal preference and consumer appeal and is not deemed to be critical. A non-homogeneous distribution of gum component and tableting media is obviously present in the gum of the primary reference since the tableting media particles are of a smaller size than the gum particles, which gum particles are of the same size as applicant's ~~gum~~ gum chips. (See page 6 of applicant's spec.).

Art Unit: 1761

4. Claims 8, 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherukuri et al as applied to claims 1-7, 9-15, 17, 18 and 21-26 above, and further in view of Ream et al.

Applicant is referred to the reasoning set forth in paragraph No. 8, Paper No. 5.

5. Claims 1-26 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Ream et al (columns 1-6) in view of Cherukuri et al or Athanikar et al.

Applicant is referred to the reasoning set forth in paragraph No. 9, Paper No. 5 and to the last two sentences in paragraph no.3 above.

6. Applicant's arguments filed August 18, 2003 have been fully considered but they are not persuasive. As set forth in paragraph No. 3 herein, a non-homogeneous distribution of gum particles and tableting media is obviously present in the gum of both primary references since the gum particles therein are of the same size as applicant's gum particles and since the tableting media particle size is smaller than the gum particle size (see page 6 of applicant's spec).

The suggestion to compress the gum composition in Ream et al into a tablet is found in Cherukuri et al (column 3, lines 7-16) or Athanikar et al (column 3, lines 10-25 and column 4, lines 25-28), wherein it is disclosed that it is conventional to compress a chewing gum composition, which includes gum particles, into a tablet.


7. Any inquiry concerning this communication from the examiner should be directed to Arthur Corbin whose telephone number is (703) 308-3850. The examiner can generally be reached on Tuesday--Friday from 10 a.m. to 7:30 p.m. and on alternate Mondays.

Art Unit: 1761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 305-7115 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

A. Corbin/dh
October 14, 2003



ARTHUR L. CORBIN
PRIMARY EXAMINER
10-15-03